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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Lassen)

In re G.P., a Person Coming Under the
Juvenile Court Law.

C062212

THE PEOPLE,

(Super. Ct. No. J5461)

Plaintiff and Respondent,

v.

G.P.,

Defendant and Appellant.

G.P. (the minor) appeals from orders adjudging him a ward of the juvenile court and placing him on probation after finding he committed vandalism (Pen. Code, § 594, subd. (a)),¹ possessed vandalism tools (§ 594.2, subd. (a)), and resisted a peace officer (§ 148, subd. (a)(1)). (Welf. & Inst. Code, §§ 602, 800.) He contends there is insufficient evidence to sustain the vandalism and possession of vandalism tools allegations. We shall affirm.

¹ All further statutory references are to the Penal Code.

BACKGROUND

On January 12, 2009, Brian Young, a high school principal, learned that graffiti had been written in yellow spray paint on one of the school's walls over a three foot by two foot area. More graffiti was found the following morning, written in a three foot by one foot area with a red felt-tip marker. Additional graffiti was found after lunch on a three and one-half foot by two and one-half foot area, written in "reddish orange" spray paint. Also, the large letters "GD" were written in a bathroom in red spray paint.

The minor showed up 10 minutes late for his fifth period class that day. Later in the period the office called the minor's teacher, Chad Lewis, and asked him to "check to see if any students had anything on them." Lewis asked the minor to stand up, and when he did so, Lewis heard the rattle of a spray paint can, which was shoved up the minor's pant leg. Escorting the minor to the principal's office, Lewis noticed two fairly small red dots on his palm. Asked the color of the spray paint can, Lewis testified, "If I remember correctly, it was also red."

Lewis left the minor at the principal's office with Assistant Principal Nathan Walker. The minor later picked up a heavy chair and told Walker he would defend himself if a cop came in.

Lassen County Sheriff's Deputy Kyle Johnson responded to the call from Principal Young. The minor started to yell at Deputy Johnson when he called the minor's mother. Deputy

Johnson told the minor to go into the office; when the minor would not calm down, Deputy Johnson informed him that he was under arrest. The minor resisted the deputy's attempts to handcuff him. A felt-tip marker fell out of the minor's pocket in the ensuing struggle. The minor did not comply until Deputy Johnson threatened to employ a Taser. A search of the minor produced another felt-tip marker.

The minor told Deputy Johnson he took the spray paint can from the trash to protect one of his friends. The spray paint can was almost empty when Deputy Johnson booked it into evidence.

DISCUSSION

The minor contends there is insufficient evidence to sustain the allegations of vandalism and possession of vandalism tools because the juvenile court's findings were based on circumstantial evidence that was "inconsistent, equivocal, uncorroborated, and susceptible to many reasonable interpretations." He is mistaken.

We review the whole record in the light most favorable to the juvenile court's finding to determine if it discloses substantial evidence such that a reasonable trier of fact could find beyond a reasonable doubt that the minor committed the allegations. (*In re Jose R.* (1982) 137 Cal.App.3d 269, 275.) We presume the existence of every fact the judge could reasonably deduce from the evidence, and indulge in all reasonable inferences in support of the finding. (*Ibid.*; see *In re Muhammed C.* (2002) 95 Cal.App.4th 1325, 1328.)

Although there is no direct evidence the minor wrote the graffiti, his possession of a spray paint can and two felt-tip markers, along with the red dots on his hand, support an inference that he wrote at least some of the graffiti.² The minor takes exception to these points.

Young testified that the spray-painted graffiti was a "Red. Red, orangish" or "Reddish orange" color. Deputy Johnson testified the letters "GD" in the bathroom had been spray painted in red paint. The only testimony regarding the color of the spray paint can was from Young, who testified: "If I remember correctly, it was also red." The minor argues the can does not link him to the graffiti because no witness could state with certainty the color of the paint in the can or whether it matched the graffiti.

The spray paint can taken from the minor was presented in evidence, as were photographs of the graffiti, except for the sample with the letters "GD." The can had been used, as it was almost empty when seized. Young's testimony on the color of the spray can, while equivocal, ties the red spray paint can to the letters "GD," which were spray painted red. Although he described the other relevant graffiti as spray painted red and "orangish," we defer to the juvenile court, which could compare the graffiti to the spray can seized from the minor.

² The juvenile court found insufficient evidence to support an allegation that the minor wrote the yellow-colored graffiti.

The minor also argues there was no evidence regarding the color or size of the felt-tip markers seized from him, or the size of the red dots on his palm. Although the markers were not presented in evidence, the red dots on the minor's palm support an inference he had used the markers, and that the markers were red, the same color of the graffiti produced by a felt-tip marker.

Pursuant to section 594, defacing another's property with graffiti constitutes the crime of vandalism. (§ 594, subd. (a).) Possession of vandalism tools is defined as: "Every person who possesses . . . a felt tip marker, or any other marking substance with the intent to commit vandalism or graffiti, is guilty of a misdemeanor." (§ 594.2, subd. (a).)

The minor's possession of the spray paint can and the felt-tip markers is circumstantial evidence tying him to the graffiti; being caught with the spray paint can used to commit some of the graffiti provides both the necessary act and mental element under section 594.2. Substantial evidence supports the allegations for both offenses.

DISPOSITION

The orders of the juvenile court are affirmed.

We concur: RAYE, J.

SIMS, Acting P. J.

CANTIL-SAKAUYE, J.